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HOUSE BILL 178

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; AUTHORIZING A COUNTY LOCAL OPTION QUALITY OF LIFE GROSS RECEIPTS TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

"~~[NEW MATERIAL]~~ QUALITY OF LIFE GROSS RECEIPTS TAX-- AUTHORITY TO IMPOSE-- ORDINANCE REQUIREMENTS-- USE OF REVENUE-- ELECTION. --

A. Prior to January 1, 2015, the majority of the members of the governing body of a county may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county for the privilege of engaging in business. The tax may be imposed in one or more increments of .149075. 4

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1 one-sixteenth percent not to exceed an aggregate rate of one-
2 fourth percent. The tax shall be imposed for a period of not
3 more than ten years from the effective date of the ordinance
4 imposing the tax. Having enacted an ordinance imposing the tax
5 prior to January 1, 2015 pursuant to the provisions of this
6 section, the governing body may enact subsequent ordinances for
7 succeeding periods of not more than ten years, provided that
8 each such ordinance meets the requirements of this section and
9 of the County Local Option Gross Receipts Taxes Act. The tax
10 imposed pursuant to the provisions of this section may be
11 referred to as the "quality of life gross receipts tax".

12 B. The governing body, at the time of enacting an
13 ordinance imposing the quality of life gross receipts tax,
14 shall dedicate the revenue to cultural programs and activities
15 provided by nonprofit or publicly owned cultural organizations
16 and institutions and to recreational programs and activities
17 provided by a local government. The governing body may specify
18 that a percentage of the revenue, not to exceed five percent,
19 shall be used for administration of the proceeds of the tax.

20 C. The governing body of a class A county with a
21 population of more than two hundred fifty thousand according to
22 the most recent federal decennial census, when dedicating the
23 revenue pursuant to Subsection B of this section, shall specify
24 that the revenue may not be used for capital expenditures,
25 endowments or fundraising, and that at least one percent but

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1 not more than three percent of the revenue shall be used for
2 marketing organizations and activities that receive funding
3 from the revenue and, in the case of Bernalillo county, at
4 least one percent but not more than three percent of the
5 revenue shall be used for implementation of the goals of the
6 cultural plan for Albuquerque and Bernalillo county.

7 D. An ordinance imposing any increment of the
8 quality of life gross receipts tax shall not go into effect
9 until after an election is held and a majority of the voters in
10 the county voting in the election votes in favor of imposing
11 the tax. The governing body shall adopt a resolution calling
12 for an election, within ninety days of the date the ordinance
13 is adopted, on the question of imposing the tax. The question
14 may be submitted to the voters as a separate question at a
15 general election or at a special election called for that
16 purpose by the governing body. A special election shall be
17 called, conducted and canvassed in substantially the same
18 manner as provided by law for general elections. In any
19 election held, the ballot shall clearly state the purpose to
20 which the revenue will be dedicated pursuant to this section.
21 If a majority of the voters voting on the question approves the
22 ordinance imposing the quality of life gross receipts tax, the
23 ordinance shall become effective in accordance with the
24 provisions of the County Local Option Gross Receipts Taxes Act.
25 If the question of imposing the quality of life gross receipts

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1 tax fails, the governing body shall not again propose the
2 imposition of the tax for a period of one year from the date of
3 the election.

4 E. The quality of life gross receipts tax revenue
5 shall be used to meet the following goals: promoting and
6 preserving cultural diversity; enhancing the quality of
7 cultural and recreational programs and activities; fostering
8 greater access to cultural and recreational opportunities;
9 promoting culture and recreation in order to further economic
10 development within the county; and supporting programs, events
11 and organizations with direct, identifiable and measurable
12 public benefit to residents of the county.

13 F. The governing body of a county that imposes the
14 quality of life gross receipts tax shall, within sixty days of
15 the election approving the imposition of the tax, appoint a
16 county cultural advisory board consisting of between nine and
17 fifteen members. Persons appointed to the board shall be
18 residents of the county who are knowledgeable about the
19 activities eligible for quality of life tax funding. The
20 members of the board shall be appointed for fixed terms and do
21 not serve at the pleasure of the governing body. The terms of
22 the initial board members shall be staggered so that one-third
23 of the members are appointed for one-year terms, one-third are
24 appointed for two-year terms and one-third are appointed for
25 three-year terms. Subsequent appointments to the board shall

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1 be for three-year terms. An individual may not serve more than
2 two consecutive terms. If a vacancy on the board occurs, the
3 governing body shall appoint a replacement member for the
4 remainder of the unexpired term.

5 G. The cultural advisory board shall have the
6 responsibility of overseeing the distribution of the quality of
7 life gross receipts tax revenue for the goals listed in
8 Subsection E of this section. The board shall biennially
9 submit recommendations to the governing body for the
10 expenditure of revenue from the quality of life gross receipts
11 tax. The board shall establish and publicize the necessary
12 qualifications for organizations and institutions to receive
13 quality of life gross receipts tax funding. The board shall
14 develop guidelines and procedures for applying for funding and
15 the criteria by which applications for funding will be
16 evaluated. The evaluation process shall include a public
17 review component.

18 H. The cultural advisory board shall establish
19 reporting requirements for recipients of the quality of life
20 gross receipts tax revenue. The board shall provide to the
21 governing body an annual evaluation of the use of the quality
22 of life gross receipts tax revenue to ensure that it is meeting
23 the goals listed in Subsection E of this section.

24 I. If the quality of life gross receipts tax is
25 enacted in a class A county with a population of more than two

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1 hundred fifty thousand according to the most recent federal
2 decennial census, the net revenue from the tax remaining after
3 distributions pursuant to Subsections B and C of this section
4 shall be distributed as follows:

5 (1) for the purpose of enhancing cultural and
6 recreational programs and activities, sixty-five percent to
7 municipally owned institutions located within the exterior
8 boundaries of the county and five percent to county-owned
9 institutions located within the exterior boundaries of the
10 county. Educational institutions serving grades kindergarten
11 through twelfth grade are not eligible for distributions
12 pursuant to this paragraph;

13 (2) for the purpose of providing cultural
14 programs and services to the residents of the county, sixteen
15 percent to private nonprofit organizations with an annual
16 operating budget of more than one hundred thousand dollars
17 (\$100,000) and two percent to private nonprofit organizations
18 with an annual operating budget of less than one hundred
19 thousand dollars (\$100,000). To be eligible for a distribution
20 pursuant to this paragraph, an organization:

21 (a) shall have been granted, for the
22 prior three consecutive years, exemption from the federal
23 income tax by the United States commissioner of internal
24 revenue as an organization described in Section 501(c)(3) of
25 the Internal Revenue Code of 1986;

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1 (b) shall have as its primary purpose
2 cultural programs; and

3 (c) shall have its principal office
4 located within the exterior boundaries of the county; and

5 (3) for the purpose of providing cultural
6 programs to residents of the county, twelve percent to
7 organizations that:

8 (a) have a strong cultural program but
9 do not have culture as their primary purpose; or

10 (b) are foundations that are affiliated
11 with state or federally owned institutions and that do not
12 otherwise qualify for funding pursuant to this section but that
13 offer cultural programs to the general public.

14 J. As used in this section, "cultural organizations
15 and institutions" means organizations or institutions having as
16 a primary purpose the advancement or preservation of zoology,
17 museums, library sciences, art, music, theater, dance,
18 literature or the humanities."